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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,468	09/20/2004	GREGORY S FIRTH		5467
42591	7590	02/22/2007	EXAMINER	
GREGORY S. FIRTH 735 VALE VIEW DRIVE VISTA, CA 92081			JACYNA, J CASIMER	
		ART UNIT	PAPER NUMBER	
		3754		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/22/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

GMA

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/711,468	FIRTH, GREGORY S
	Examiner	Art Unit
	J. Casimer Jacyna	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 20 September 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) 6 and 7 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachments(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

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1. Claims 6 and 7 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may refer to other claims only in the alternative. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.
2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. On line 7 of claim 1, there is no antecedent basis for "said water dispersal chamber" because only a fluid dispersal chamber has been defined. On lines 3-5 of claim 2, it is not understood how a fluid burst in a tube can perform the function of (i.e. "for the purpose of") fitting a length of flexible tube as claimed. It would appear that the fluid burst travels through the length of tube, but it is not understood how the fluid burst can attach or fit a length of tube. Regarding claim 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
3. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sirhan (4,903,864). Sirhan discloses a concealed fluid burst device including a reservoir 24 that is handheld via the strap shown in figure 1, a pump 18 that is finger activated at 22, a nozzle 20 hidden behind a thin flexible surface 14, a flange or coupling 40, a pin hole as disclosed on col. 4, line 22, and a flexible tube 16.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan (4,903,864) in view of Caffrey (2004/0155064). Sirhan discloses a concealed nozzle shooter substantially as claimed but does not disclose a fluid dispersal chamber. However, Caffrey teaches another concealed nozzle shooter having a fluid dispersal chamber 48 as part of the nozzle 50 apparently for the purpose of attaining a better spray pattern. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the nozzle of Sirhan with a fluid dispersal chamber as, for example, taught by Caffrey in order to attain a better spray pattern.

8. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson (4,997,110) in view of Sirhan (4,903,864). Swenson discloses a concealed nozzle shooter including a fluid dispersal chamber as is the enlarged area shown immediately behind the nozzle 30 in figures 2 and 3, a reservoir 12 of a size and shape that it may be handheld as claimed, a pump 26 that is finger activated at 48, a flange or coupling as is the housing 52 that surrounds and supports the dispersal chamber on nozzle 30, a pin hole on the front of 30 as shown in figure 3, and a flexible tube 28, 32, wherein the entire apparatus is designed to be concealed underneath clothing substantially as claimed but does not disclose the pin hole nozzle on 30 to be hidden behind a thin flexible surface and operating through a pin hole in the thin flexible surface. However, Sirhan teaches another concealed nozzle shooter having the nozzle and a pin hole in the fabric apparently for the purpose of ensuring that the concealing clothing does not interfere with the usage of the device or become

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wet. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the concealed nozzle of Swenson an attachment to a pin hole in the concealing clothing as, for example, taught by Sirhan in order to ensure that the concealed clothing does not interfere with the usage of the device or become wet.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Loy and Reiser et al. teach other concealed nozzles.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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(Date)

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### **Certificate of Transmission**

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Signature: \_\_\_\_\_

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



J. Casimer Jacyna  
Primary Examiner  
Art Unit 3754

CJ